IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 30670 of 1998

Between:

1 K. Upender, S/o. Rajaiah,

Branch Manager (under suspension) of Medak

Dist. Co-op Central Bank at Gajwal,
R/o. H.No. 1-9-252/24, Ramnagar, Hyderabad.

2 M.A. Raoof, S/o. M.A. Nabi,

Supervisor (under Suspension) of Medak

Dist. Co-Op. Central Bank at Gajwal,
R/o. H.No. 5-69, Lingojiguda, Kameswararao colony,

Saroornagar, Hyderabad- 500035

3 S. Venkatesham, S/o. Yellaih,

Supervisor (under suspension) of Medak Dist. Co-op.
Central Bank at Gajwal,

R/o H.No. 1-3-176-4/C-1, Padmashali Colony,

Kavadiguda, Hyderabad.

..... PETITIONERS

AND

1 The District Collector (Co- operation), Medak District,

at Sangareddy.

2 The District Co- operative Officer, Medak District,

at Sangareddy,

3 The Divisional Co-operative Officer, Siddipet, Medak District.

4 General Manager, Dist. Co-operative Central Bank,

Medak, at Sangareddy.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings No. 1355/98-C dt. 22-9-1998 of the 1st respondent i.e. the District Collector, (Co-operation), Medak, as illegal, arbitrary, unjust, without jurisdiction, power or authority, besides being violative of provisions of the A.P. Co- operative Societies Act, 1964 and consequently quash the same and pass

Counsel for the Petitioners :Mr.G.V.SHIVAJI

Counsel for the Respondent Nos. 1 to 3: G.P.FOR CO.OP.& AGRICULTURE

Counsel for the Respondent No.4: Mr.DURGA REDDY THIMMAYYAGIRI

The Court made the following :

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the proceedings No.1355/98-C dated 22-09-1998 of the first respondent, i.e., the District Collector (Co. operation), Medak as illegal and arbitrary.

Through the impugned proceedings, the 1st respondent, by virtue of powers, vested in him under Cl.(f) of sub-section (i) of Sec.79, accorded permission to prosecute the petitioners -employees of the MDCCB, Sangareddy and authorized the Divisional Co-op.Officer, Siddipet, to file a criminal complaint with the Special Court, Hyderabad. At the time of admission of the writ petition, an interim order was passed suspending the said order in W.P.M.P.No.37525/98 and after filing a vacate stay petition in W.V.M.P.No.1630/99, the same was vacated by the learned single judge on 31-12-99. Aggrieved by the same, the petitioners have filed W.A.No.367/2000. The writ appeal was dismissed with the following direction:

> **"ORAL JUDGMENT:(per THE HON'BLE THE CHIEF JUSTICE SHRI M.S.LIBERHAN)**

This appeal is directed against the interlocutory order of the learned single Judge vacating the interim order granted on 5-11-1998.

By the order dated 5-11-1998 this Court while admitting the Writ Petition granted interim suspension of the proceedings of the 1st respondent – District Collector(Cooperation), Medak district dated 22-09-1998 according sanction for prosecution of the appellants – writ petitioners who are working in District Cooperative Central Bank, Medak at Sangareddy – 4th respondent under section 79(1)(f) of the Act on the allegation that they have fraudulently caused financial loss to Primary Agricultural Cooperative Societies, Gajwel and Dilalpur and also to the bank by processing bogus loan applications etc. By the order dated 22-09-1998, the 1st respondent authorized the Divisional Cooperative Officer, Siddipet – 3rd respondent to file a criminal complaint before the Special Court at Hyderabad.

The main contention of the learned counsel for the appellants is that there are no provisions empowering the Collector to order for prosecution of the appellants under the Act in respect of Primary Agricultural Co.operative Societies and the appellants are being prosecuted contrary to the orders issued by the Government in G.O.Ms.No.34 dated 16-1-1989; and the instructions issued by the Cooperative Department and as such the sanction accorded by the 1st respondent is illegal. We find no merit in the said contention. Even if it is so, in our view, it is at the most an irregularity not going to the root of the prosecution. In exercise of the extraordinary jurisdictidon of this court under Article 226 of the Constitution the proceedings of prosecution ordered by the 1st respondent cannot be quashed merely because the department has given some extra protection to its employees. The protection, if any given, is only administrative in nature and it has no statutory enforcement. We, therefore, find no ground to interfere with the order of the learned single Judge. The Writ Appeal is accordingly dismissed. No order as to costs."

From the above, it is seen that nothing remains in this writ petition to be decided. Even otherwise it is asserted by the learned counsel for the respondents that after the interim order was vacated, prosecution was already launched by the respondent.

In view of the above, the writ petition is dismissed. No order as to costs.

However, this will not preclude the petitioner from raising all the grounds as available under the law, before the criminal court.

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22-06-2005

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To

1 The District Collector (Co- operation),

Medak District, at Sangareddy.

2 The District Co- operative Officer,

Medak District, at Sangareddy,

3 The Divisional Co-operative Officer, Siddipet, Medak District.

4 General Manager, Dist. Co-operative Central Bank,

Medak, at Sangareddy.

5 Two CCs to G.P.FOR CO.OP.& Agriculture,

High Court of A.P., Hyderabad(OUT)

6 Two CD copies